

JONATHAN I. EDELSTEIN

Attorney at Law
271 Madison Avenue, 20th Floor
New York, NY 10016
Tel.: (212) 871-0571 x208
Fax: (212) 382-3610
jonathan.edelstein.2@gmail.com

December 29, 2010

VIA ELECTRONIC CASE FILING

Hon. Sterling Johnson, U.S.D.J.
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Archer, Docket No. 08-CR-288 (SJ)

Your Honor:

I am in receipt of the Court's order dated yesterday, denying Mr. Archer's motion for bail pending appeal. I respectfully write on Mr. Archer's behalf to request that his surrender date, which is currently set for January 6, 2011, be adjourned thirty (30) days to February 5, 2011. The reason why this adjournment is requested is to permit Mr. Archer to seek review of this Court's bail order in the Second Circuit Court of Appeals.

I intend to file a motion for bail in the Second Circuit as soon as possible pursuant to Fed. R. App. Pro. 9(b). I expect, however, that the motion will have a considerable number of exhibits and will, logistically, take time to prepare. In addition, I am behind schedule on several projects due to the recent snowstorm, and my staff is on holiday vacation. As such, I anticipate filing the motion early next week, either January 3 or 4.

It is my experience that the Second Circuit acts quickly to resolve motions for release pending appeal. Nevertheless, the Government must be afforded time to respond to the motion, and the Second Circuit often holds oral argument on bail applications. I do not anticipate that the court will be able to rule on the motion before January 6. Indeed, even if I were to file the motion today, it is extremely unlikely that the circuit court would rule before the surrender date.

It should be noted that defendant filed the bail motion in this Court on November 12, 2010, within three weeks after sentencing and nearly two months before the surrender date; thus,

the bail application was not filed at the last minute for tactical reasons. This request for adjournment is likewise not made for delay but instead to secure Mr. Archer's due process rights in the Second Circuit. It is respectfully submitted that the 30-day enlargement sought herein will provide sufficient time for the Second Circuit to consider defendant's bail application and avoid any possibility of unnecessary incarceration, while not unduly delaying his surrender in the event that the circuit rules adversely.

The Court's consideration in this matter is appreciated.

Respectfully submitted,

/s/

Jonathan I. Edelstein

cc: AUSA Andrew E. Goldsmith (Via ECF)
AUSA Soumya Dayananda (Via ECF)